

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT DALE,)	
)	
Plaintiff,)	Cause No.
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
SERVE AT:)	
United States Attorney)	<u>JURY TRIAL DEMANDED</u>
111 S. 10th Street, 20th Floor)	
St. Louis, MO 63102)	
)	
And)	
)	
ABBE SUDVARG, M.D., an individual,)	
SERVE AT:)	
Family Care Center)	
401 Holly Hills Avenue)	
St. Louis, MO 63111)	
)	
Defendants.)	

**COMPLAINT FOR DAMAGES FOR NEGLIGENCE UNDER THE
FEDERAL TORT CLAIMS ACT**

COMES NOW Plaintiff and for his cause of action against Defendants herein, state to the Court as follows:

JURISDICTION AND VENUE

1. This action is brought pursuant to the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346(b), 2671 et seq., against the United States of America, which vests exclusive subject matter jurisdiction of Federal Tort Claims litigation in the Federal District Court, and Abbe Sudvarg, M.D.

2. Venue is proper in the Eastern District of Missouri pursuant to 28 U.S.C. § 1391(b)(1) and/or 1391(b)(2), as well as 28 U.S.C. § 1391(e)(1) because the United States is a

Defendant and Abbe Sudvarg, M.D. resides in the Eastern District of Missouri and the conduct and actions which are the subject matter of this case occurred in the Eastern District of Missouri.

PARTIES

3. Plaintiff Robert Dale is and was at all times herein mentioned a resident and citizen of the state of Missouri.

4. Defendant, United States of America, acted through its agency, the United States Department of Health Human Services.

5. Abbe Sudvarg, M.D. is and was at all times herein mentioned a physician licensed to practice in the State of Missouri. Dr. Sudvarg practices medicine in St. Louis, Missouri as an employee, agent or servant of Family Health Care Center, a federally funded family medical clinic located in St. Louis, Missouri.

STATUTORY BASIS OF LIABILITY AGAINST THE UNITED STATES OF AMERICA

6. This case is brought against the United States of America pursuant to 28 U.S.C. § 2671 et seq., commonly referred to as the “Federal Tort Claims Act”. Liability of the United States is predicated specifically on 28 U.S.C. § 1346(b)(1) and 2674 because the personal injuries and resulting damages that form the basis of this Complaint were proximately caused by the negligence, wrongful acts and/or omissions of Defendant Abbe Sudvarg, M.D., as an employee of the United States of America through its agency, the Department of Health & Human Services. Defendant Sudvarg was acting within the course and scope of her employment or agency practicing medicine through the Family Health Care Center medical clinic, where the United States of America, if a private person, would be liable to the Plaintiffs in the same manner and to the same extent as a private individual under the laws of the State of Missouri.

7. Pursuant to 28 U.S.C. § 2675, this claim was presented to the appropriate agency

of Defendant, the United States of America, namely, the Department of Health & Human Services on or about January 23, 2020, for the claims of Plaintiff Robert Dale. On August 20, 2020, Department of Health & Human Services corresponded with Plaintiff denying his claim.

8. Beginning in June of 2011, Plaintiff became a patient of Dr. Sudvarg's practice at the Family Health Care Center.

9. On May 24, 2019, Plaintiff presented to the medical offices of Dr. Sudvarg with a specific complaint of increased pain in his right lower extremity and the presence of a palpable knot behind his right knee.

10. Defendants are under a duty to provide Plaintiff with medical care that was at all times reasonably prudent, rising to the level of care that a careful and prudent health care provider would have provided under the same or similar circumstances.

11. On May 24, 2019, Defendants were negligent and failed to meet the requisite standard of care in attending to Plaintiff in that: (1) Defendants failed to appropriately respond to Robert Dale's presentation and specifically, failed to order follow up tests or scans to determine the cause of Plaintiff's increased pain in his lower extremity as well as the cause of the knot behind Plaintiff's right knee.

12. At the time of this May 24, 2019 exam, Plaintiff was suffering from the presence of a popliteal aneurysm which went undiagnosed, as Plaintiff was sent home with a prescription of pain medicine.

13. As a direct and proximate result of the aforesaid negligence of Defendants, Plaintiff's undiagnosed popliteal aneurysm progressed to the point where Plaintiff's leg pain and disability increased. The delay in diagnosis of his popliteal aneurysm led to the forced amputation of his right leg above the knee.

14. As a direct and proximate result of this aforesaid negligence of Defendants, Plaintiff Robert Dale has suffered pain, anguish and has lost his ability to function normally with two legs. Plaintiff therefore seeks compensation for these damages, including the total loss of his ability to walk and otherwise enjoy related activities of daily living.

WHEREFORE, Plaintiff Robert Dale prays for judgment against Defendants in a sum to be found reasonable by a jury upon the trial of this case, together with his costs incurred herein and for such other and further relief as the Court deems just and proper in the circumstances.

Respectfully submitted,

By: /s/ Gary A. Growe
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